VETERAN VOTING SUPPORT ACT

SPEECH OF

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 2008

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise today in support of H.R. 6625, the Veteran Voting Support Act. I want to thank my colleague, Chairman BRADY, for sponsoring this important legislation.

We have a special duty to make it easier, not harder, for all our citizens to participate in this great democracy. I was utterly appalled to learn that earlier this year, the Department of Veterans Affairs was blocking non-partisan voter registration organizations from its facilities.

Congressional and public outrage forced the VA to revise its policy. However, their ''new'' directive still falls short of providing the voting assistance our veterans deserve. This is simply unacceptable. H.R. 6625 requires the VA to actively offer voter registration and assistance opportunities to our veterans.

Every day our soldiers risk life and limb to protect our liberties and defend our freedoms. When they come home, we owe them the most sacred of freedoms—the right to vote. We must do everything in our power to help them register and participate in this historic election.

HONORING JAMES BLEDSOE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 18, 2008

Mr. GRAVES. Madam Speaker, I proudly pause to recognize James Bledsoe of Blue Springs, Missouri. James is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1763, and earning the most prestigious award of Eagle Scout.

James has been very active with his troop, participating in many scout activities. Over the many years James has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending James Bledsoe for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

ADA AMENDMENTS ACT OF 2008

SPEECH OF

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 2008

Mr. GEORGE MILLER of California. Madam Speaker, I rise today in strong support of final passage of S. 3406, the ADA Amendments Act of 2008.

Since 1990, the Americans with Disabilities Act has provided protection from discrimination for millions of productive, hard-working Americans so that they may fully participate in our Nation's schools, communities and workplaces.

Among other rights, the law guaranteed that workers with disabilities would be judged on their merits and not on an employer's prejudice.

But since the ADA's enactment, several Supreme Court rulings have dramatically reduced the number of individuals with disabilities who are protected from discrimination under the law.

Workers like Carey McClure, an electrician with muscular dystrophy who testified before our committee in January, have been determined by an employer be ''too disabled'' to do a job, yet courts have said that these individuals are not disabled enough. This is the terrible ''catch-22'' that Congress will change with passage of this bill.

S. 3406, like H.R. 3195 passed in June, remedies this situation in several ways by reversing flawed court decisions to restore the original congressional intent of the ADA. Workers with disabilities who have been discriminated against will no longer be denied their civil rights as a result of these erroneous court decisions.

We expect that individuals will find it much easier to meet the determination of disability under the amended ADA.

In order to achieve the remedial purpose of the ADA as a civil rights law, S. 3406 re-establishes the scope of protection to be generous and inclusive. The bill returns the proper emphasis to whether discrimination occurred rather than on whether an individual's impairment qualifies as a disability.

S. 3406 ensures that individuals who reduce the impact of their impairments through means such as hearing aids, medications, or learned behavioral modifications will be considered in their unmitigated state.

For people with epilepsy, or diabetes, or other conditions who have successfully managed a disability, this means the end of the ''catch-22'' that Carey McClure and so many others have encountered when seeking justice.

For our returning war veterans with disabilities, S. 3406 will ensure their transition back to civilian life will not include another battle here at home—a battle against discrimination on the basis of disability.

And students with physical or mental impairments will have access to the accommodations and modifications they need to successfully pursue an education.

Much of the language contained in S. 3406 is identical to the House-passed H.R. 3195. This includes provisions concerning mitigating measures, episodic conditions, major life activities, treatment of claims under the ''regarded as'' prong, regulatory authority for the definition of disability, and the conforming amendments to Section 504 of the Rehabilitation Act.

In the House Committee Reports on H.R. 3195, we clarify that an individual who is ''regarded as having such an impairment'' under the third prong of the definition is not subject to the functional test (i.e., required to establish that the perceived or actual impairment substantially limits a major life activity) set forth in the first prong. Thus, an individual with an actual or perceived impairment who is disqualified from a job, program, or service and alleges that the adverse action was based upon his or her impairment is covered by the ADA as a member of the protected class, and therefore entitled to bring a claim.

In clarifying the scope of protection under the third prong of the definition, we also established that reasonable accommodations or modifications do not need to be provided for those individuals who qualify for coverage only because they have been ''regarded as'' having a disability. We are confident, as is the Senate, that individuals who need accommodations or modifications will receive them because those individuals will now qualify for coverage under the first or second prongs (under the less demanding interpretation of ''substantial limitation'') when accommodations or modifications are still required. Our clarification regarding the provision of modifications here does not shield qualification standards, tests, or other selection criteria from challenge by an individual who is disqualified based on such standard, test, or criteria. As is currently required under the ADA, any standard, test, or other selection criteria that results in disqualification of an individual because of an impairment can be challenged by that individual and must be shown to be job-related and consistent with business necessity or necessary for the program or service in question.

Other small differences in the findings and purposes in S. 3406, as well as the rule of construction related to the broad coverage of the act, correspond to similar language in H.R. 3195 and support the objectives as described in the House Committee Education and Labor Report.

As such, our committee report continues to reflect the intent of the legislation and should be regarded as a valid interpretation, with one exception—the definition of ''materially restricts.''

This difference between the two bills resides in the attempt to correct the current interpretation of ''substantially limits.''

The EEOC regulations define the term ''substantially limits'' as ''unable to perform'' or ''significantly restricted.'' In the Toyota case (Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002)), the Supreme Court interpreted ''substantially limits'' to mean ''prevents or severely restricts.''

Both the House and the Senate clearly expect the courts and the agencies to apply a less demanding standard when interpreting ''substantially limits,'' even though the two chambers took divergent, but not inconsistent, approaches.

S. 3406 rejects both of these definitions as too demanding and too narrow, and directs the courts and the agencies to interpret the term ''substantially limits'' consistently with the findings and purposes of the ADA Amendments Act.

H.R. 3195 defines ''substantially limits'' to mean ''materially restricts.'' While the committee believed inclusion of this language would send a strong signal that ''while the limitation imposed by an impairment must be important, it need not rise to the level of severely restricting or significantly restricting the ability to perform a major life activity'' (House Committee on Education and Labor Report 110–730 part 1, at 9), our colleagues in the Senate disagreed.

In his statement, Senator KENNEDY notes that the term ''materially restricts,'' and the House committee report's references to a